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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,751	09/24/2003	Darin J. Trippensee	I-23415	4512

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MACMILLAN SOBANSKI & TODD, LLC
ONE MARITIME PLAZA FOURTH FLOOR
720 WATER STREET
TOLEDO, OH 43604-1619

EXAMINER

KRAUSE, JUSTIN MITCHELL

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 02/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/669,751

Applicant(s)

TRIPPENSEE ET AL.

Examiner

Justin Krause

Art Unit

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 16-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Election/Restrictions

1. Applicant's election with traverse of Group I in the reply filed on December 19, 2005 is acknowledged. The traversal is on the ground(s) that the search of the combination and subcombination would not create an undue burden on the examiner. This is not found persuasive because a search of the subcombination can be conducted independent of the search required for the combination.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 16-20 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on December 19, 2005.

Claim Objections

3. Claim 3 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The members acting upon the assist member being abutment members does not impart any additional structure on the device. It has already been established that a pair of members exist to act upon the assist element.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 5 recites the limitation "the movable abutment member" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claim 1-6, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Murphy (US Patent 2,649,299).

Murphy shows the combination of an actuator member (13a with 50a) and an assist mechanism comprising an assist element (20), carried between two members (30, 30a) to cause the assist element to store energy when the actuator member is moved in an extended position and releases the energy when the actuator member is moved in a retracted position.

Regarding claim 2, the combination further comprises an outer tube (13) from which the actuator member extends, the assist element being carried by the outer tube.

Regarding claim 4, one of the abutment members (30) is maintained in a fixed position and the other abutment member (30a) is adapted to move responsive to movement of the actuator member.

Regarding claim 5, the fixed abutment member is fixed relative to the outer tube and the movable abutment member is movable relative to the outer tube.

Regarding claim 6, the assist element is a spring, whereby extending the actuator member, the movable abutment member is moved to cause the spring to be compressed to store energy and upon retracting the actuator member, the movable abutment member is free to move to permit the spring to release the energy.

Regarding claim 8, members acting upon the assist element include a movable abutment member (30a) that is adapted for movement by forming a connection (13a) between the actuator member and the movable abutment member.

Regarding claim 9, the connection between the actuator member and movable abutment member includes one or more connection members (13a) that extend between the actuator member and the movable abutment member.

9. Claims 1-9, are rejected under 35 U.S.C. 102(b) as being anticipated by Tauscher et al (US Patent 2,424,198).

Tauscher shows the combination of an actuator member (18) and an assist mechanism comprising an assist element (43, 44), carried between two members (37, 42) to cause the assist element to store energy when the actuator member is moved in

an extended position and releases the energy when the actuator member is moved in a retracted position.

Regarding claim 2, the combination further comprises an outer tube (10) from which the actuator member extends, the assist element being carried by the outer tube.

Regarding claim 4, one of the abutment members (37) is maintained in a fixed position and the other abutment member (42) is adapted to move responsive to movement of the actuator member.

Regarding claim 5, the fixed abutment member is fixed relative to the outer tube and the movable abutment member is movable relative to the outer tube.

Regarding claim 6, the assist element is a spring (43,44), whereby extending the actuator member, the movable abutment member is moved to cause the spring to be compressed to store energy and upon retracting the actuator member, the movable abutment member is free to move to permit the spring to release the energy.

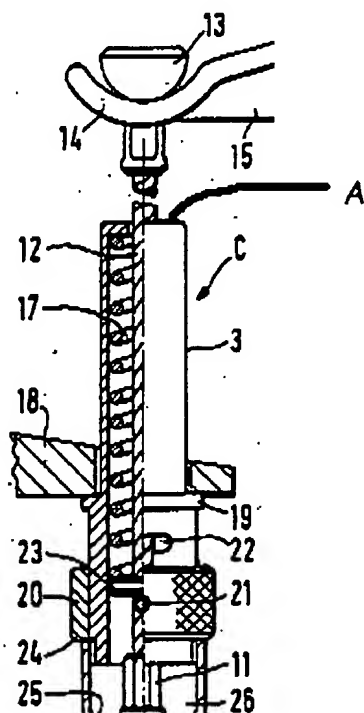
Regarding claim 7, the members acting upon the assist element are abutment members including a clamp (37) fixed relative to the outer tube and a collar guide (42) movable relative to the outer tube

Regarding claim 8, members acting upon the assist element include a movable abutment member (42) that is adapted for movement by forming a connection (22) between the actuator member and the movable abutment member.

Regarding claim 9, the connection between the actuator member and movable abutment member includes one or more connection members (22) that extend between the actuator member and the movable abutment member.

Claims 1-15 rejected under 35 U.S.C. 102(b) as being anticipated by Solano et al (US Patent 4,887,705).

Solano shows the combination of an actuator member (12) and an assist mechanism comprising an assist element (17), carried between two members (23 and the end of 3 ('A' in the drawing below)) to cause the assist element to store energy when the actuator member is moved in an extended position and releases the energy when the actuator member is moved in a retracted position.



Regarding claim 2, the combination further comprises an outer tube (3) from which the actuator member extends, the assist element being carried by the outer tube.

Regarding claim 4, one of the abutment members (A) is maintained in a fixed position and the other abutment member (23) is adapted to move responsive to movement of the actuator member.

Regarding claim 5, the fixed abutment member is fixed relative to the outer tube and the movable abutment member is movable relative to the outer tube.

Regarding claim 6, the assist element is a spring (17), whereby extending the actuator member, the movable abutment member is moved to cause the spring to be compressed to store energy and upon retracting the actuator member, the movable abutment member is free to move to permit the spring to release the energy.

Regarding claim 7, the members acting upon the assist element are abutment members including a clamp (A) fixed relative to the outer tube and a collar guide (23) movable relative to the outer tube

Regarding claim 8, members acting upon the assist element include a movable abutment member (23) that is adapted for movement by forming a connection between the actuator member and the movable abutment member.

Regarding claim 9, the connection between the actuator member and movable abutment member includes one or more connection members (12) that extend between the actuator member and the movable abutment member.

Regarding claim 10, the one or more connection members are cable assemblies comprising a cable (12) having opposite ends including a fixed end (13) and a movable end (6), the fixed end being fixed relative to the actuator member and the movable end being adapted to move and engage the movable abutment member.

Regarding claim 11, a clevis (13) is fixed to the actuator member, the fixed end being attached to the clevis so that the cable extends from the clevis beyond the abutment member.

Regarding claim 12, each of the abutment members are provided with one or more guides through which the cables pass.

Regarding claim 13, the cable always extends beyond the movable abutment member.

Regarding claim 14, the combination further includes a stop member (6) to limit travel of the movable abutment member.

Regarding claim 15, the stop member has an o-ring portion (7) on the outer tube.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Art Unit: 3682

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin Krause whose telephone number is 571-272-3012. The examiner can normally be reached on Monday - Friday, 7:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on 571-272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JMK
2/16/06



RICHARD W. RIDLEY
PRIMARY EXAMINER

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